

***Before the***  
**FEDERAL COMMUNICATIONS COMMISSION**  
**Washington, DC 20554**

In the Matter of	)	
	)	
Bridging the Digital Divide for Low-Income Consumers	)	WC Docket No. 17-287
	)	
Lifeline and Link Up Reform and Modernization	)	WC Docket No. 11-42
	)	
Telecommunications Carriers Eligible for Universal Service Support	)	WC Docket No. 09-197
	)	

**COMMENTS OF THE BENTON FOUNDATION**

The Benton Foundation<sup>1</sup> (“Benton”) respectfully submits these comments in response to the Federal Communications Commission’s (“Commission”) December 1, 2017 Notice of Proposed Rulemaking regarding changes to its Lifeline program.<sup>2</sup>

The proposed changes to the Lifeline program threaten to destabilize the Lifeline market and disrupt the service of more than 8.5 million Lifeline subscribers.<sup>3</sup> It is particularly alarming that the Commission proposes to eliminate all Lifeline support to non-facilities-based providers, who currently serve about 70% of Lifeline subscribers.<sup>4</sup> The Commission speculates that eliminating non-facilities-based providers from the Lifeline program will incentivize increased

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<sup>1</sup> The Benton Foundation is a nonprofit organization dedicated to promoting communication in the public interest. These comments reflect the institutional view of the Foundation and, unless obvious from the text, are not intended to reflect the views of individual Foundation officers, directors, or advisors.

<sup>2</sup> *Bridging the Digital Divide for Low-Income Consumers*, Fourth Report And Order, Order On Reconsideration, Memorandum Opinion And Order, Notice Of Proposed Rulemaking, And Notice Of Inquiry, 32 FCCRcd 10475 (2017) (“*2017 Lifeline NPRM*”).

<sup>3</sup> *2016 Universal Service Monitoring Report*, CC Docket No. 96-45 at 30 (2017).

<sup>4</sup> *Id.*

investment in broadband-capable networks. This reasoning is flawed. As evidenced by the rapid withdrawal of facilities-based providers from the Lifeline market, these providers have found it more profitable to serve the Lifeline community through partnerships with resellers. While removing non-facilities-based providers from the Lifeline program will not lead to increased investment, it will harm competition, reduce consumer choice, and hamper innovation in the wireless market. Benton urges the Commission to abandon its drastic proposal to overhaul the Lifeline program, which would unnecessarily disrupt Lifeline support to millions of Americans instead of furthering the Commission’s goal of achieving 21st Century connectivity for all.

## **BACKGROUND**

When the Commission first expanded the Lifeline program to all eligible non-facilities-based providers in 2012, it recognized that these providers bring benefits that further the program’s goals. In its *2012 Lifeline Order*, the Commission issued a blanket forbearance from the facilities-based requirement contained in section 214(e)(1)(A) to all carriers that seek limited Eligible Telecommunications Carrier (“ETC”) designation to participate in the Lifeline program.<sup>5</sup> This allows Mobile Virtual Network Operators (“MVNOs” or “resellers”)—non-facilities-based providers that purchase access to another company’s wireless network wholesale and resell it to consumers—to receive support from the Lifeline program for the service they provide to eligible subscribers. The Commission emphasized that pre-paid wireless providers had “expanded choices in many states for low-income consumers” and “likely contributed to the increasing telephone penetration rate of consumers making less than \$10,000 a year.”<sup>6</sup> Fast

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<sup>5</sup> *Lifeline and Link Up Reform and Modernization*, Report And Order And Further Notice Of Proposed Rulemaking, 27 FCCRcd 6656, 6813 (2012) (“*2012 Lifeline Order*”).

<sup>6</sup> *Id.*, 27 FCCRcd at 6670.

forward six years and the benefits of allowing resellers to participate in the Lifeline program are stronger than ever. MVNOs are the leading providers of Lifeline service, bringing connectivity to over 8.5 million Lifeline subscribers who are benefitting from more competition and choice today than ever before.

**I. Eliminating Lifeline support for non-facilities-based providers will not cause facilities-based providers to increase investment in their networks.**

In its *2017 Lifeline NPRM*, the Commission speculates that giving large nationwide providers exclusive access to the retail Lifeline market will encourage new investment. Specifically, it posits that limiting Lifeline support to facilities-based providers will “improve the business case for deploying facilities to serve low-income households” and “[make] deployment of the networks more economically viable.”<sup>7</sup> On the contrary, serving Lifeline subscribers on a retail, rather than wholesale, basis will not increase net profits for incumbents enough, if at all, to induce greater investment. The rapid withdrawal of facilities-based providers from the Lifeline market shows that offering coverage to Lifeline communities through partnerships with resellers makes the better business case.

**A. Facilities-based providers will not see a significant increase in net profits if given exclusive access to Lifeline subscribers.**

When the large nationwide providers sell their excess network capacity to wireless resellers, they recoup wholesale costs while avoiding the high costs of providing retail service. As the Commission noted in its *Twentieth Mobile Wireless Competition Report*, facilities-based providers enter into agreements with MVNOs when “the MVNO has better access to some market segments than the host facilities-based service provider and can better target specific

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<sup>7</sup> *2017 Lifeline NPRM*, 32 FCCRcd at 10498.

market segments, such as low-income consumers or consumers with lower data-usage needs,”<sup>8</sup> as well as Asian-American and African-American communities, non-English speakers, and less-educated populations. Wireless resellers are successful at targeting these niche segments of the market because they differentiate their retail offerings to cater to those specific segments. For example, many MVNOs embrace targeted marketing and distribution approaches, such as point-of-sale displays in local businesses. This differentiation can be profitable for resellers targeting specific market segments, but costly for incumbents who generally target broader markets. Thus, incumbents can avoid the costs of marketing, sales, service packaging, distribution, customer billing, customer service, and Lifeline compliance and verification that come with serving Lifeline subscribers.

Revenues from Lifeline subscribers represent a drop in the bucket compared to the overall revenues of the big four nationwide providers. Total wireless service revenues were approximately \$189 billion in 2016, with the four nationwide providers accounting for about 98% of this revenue.<sup>9</sup> Providers receive \$9.25 per subscriber per month from the Lifeline program.<sup>10</sup> While many Lifeline subscribers receive service covered entirely by the subsidy, some subscribers may use the subsidy to help pay for a higher-priced service. Even if one were to assume that resellers receive an average of \$20 per month from each of their 8.5 million Lifeline subscribers, that would only amount to about \$2 billion in annual revenue. For incumbent providers, who already receive \$185 billion a year, this would only represent a 1.1%

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<sup>8</sup> *Twentieth Mobile Wireless Competition Report*, 32 FCCRcd 8968, 8976 (2017).

<sup>9</sup> *Id.*, 32 FCCRcd at 8987.

<sup>10</sup> Providers can receive up to an additional \$25 per month for qualifying subscribers that live on federally-recognized Tribal lands. *2017 Lifeline NPRM*, 32 FCCRcd at 10477. As of 2016, only 2.8% of Lifeline subscribers qualified for this enhanced subsidy. *2016 Universal Service Monitoring Report*, CC Docket No. 96-45 at 30.

increase in annual revenue. This increase is not nearly enough to incentivize the kind of investment that the Commission anticipates, particularly after accounting for the increased expenses associated with serving those subscribers. Through partnerships with resellers, facilities-based providers are likely receiving the same or more revenue and are able to continue to focus on building out their networks.

**B. The fact that facilities-based providers are rapidly withdrawing from the retail Lifeline market suggests they find partnerships with wholesalers more profitable.**

Incumbent facilities-based providers have rapidly shifted away from the retail Lifeline market, instead opting to have their networks offer coverage to the Lifeline market through partnerships with resellers. Facilities-based providers' withdrawal from the Lifeline program suggests these providers find it more cost-effective to sell wholesale access to their networks rather than invest in tailoring their business models to serve Lifeline subscribers.

After relinquishing its ETC designation in Kansas in April of 2017, an AT&T spokesperson claimed that “[i]ncreased competition and a growing number of other service providers, particularly wireless, offering Lifeline discounts to eligible consumers has led to a dramatic reduction in our Lifeline subscribers—leaving us with just 6 percent of the Lifeline subscribers in Kansas.”<sup>11</sup> T-Mobile’s chief financial officer called T-Mobile’s participation in the Lifeline program “non-sustainable,” and said “[w]e don’t think Lifeline is a valuable or

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<sup>11</sup> Peter Hancock, *AT&T dropping out of Kansas ‘Lifeline’ phone program for the poor*, Lawrence Journal-World.com (Apr. 28, 2017), [www2.ljworld.com/news/2017/apr/28/t-dropping-out-kansas-lifeline-phone-program-poor](http://www2.ljworld.com/news/2017/apr/28/t-dropping-out-kansas-lifeline-phone-program-poor).

sustainable product for our base.”<sup>12</sup> Given the withdrawal of facilities-based providers from the Lifeline market, the large, nationwide providers will have to spend significant time and money developing Lifeline-compatible business models rather than focusing on building out networks. Thus, forcing incumbents to be the exclusive Lifeline providers may actually upset their business models and investment plans.<sup>13</sup>

**II. The elimination of Lifeline support for non-facilities-based providers will hurt competition, reduce consumer choice, and hamper innovation in the market for Lifeline-supported services, as well as in the greater wireless market.**

As a growing number of Americans turn to smartphones as their primary means of online access, wireless resellers have pioneered innovative business offerings that are bringing mobile connectivity to customer sub-segments with unique needs and preferences. Because many of the communities MVNOs target rely on Lifeline, eliminating Lifeline support for these resellers will cripple the competition and innovation they bring to the wireless market.

**A. Wireless resellers are a bright spot of competition in an otherwise concentrated wireless market.**

MVNOs represent an increasingly robust force of competition in the U.S. wireless market. Today, one in ten U.S. wireless subscribers have chosen to receive service from an MVNO and MVNO subscribership is growing at a rate nearly two times that of the

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<sup>12</sup> Joan Engebretson, *CFO: ‘Non-sustainable’ T-Mobile Lifeline Business to be Phased Out*, telecompetitor (Jun. 8, 2017), [www.telecompetitor.com/cfo-non-sustainable-t-mobile-lifeline-business-to-be-phased-out](http://www.telecompetitor.com/cfo-non-sustainable-t-mobile-lifeline-business-to-be-phased-out).

<sup>13</sup> See, e.g., *Sprint Ex Parte*, WC Docket No. 17-287 (November 8, 2017) (expressing concern over the disruption that would occur for all program participants if resellers were eliminated from the Lifeline program).

subscribership of the four major wireless providers.<sup>14</sup> These wireless resellers also represent a growing segment of the American small business landscape. According to a recent report by IBISWorld, the number of employees in the “Telecommunications Resellers” industry rose at an annualized rate of 10% over the past five years.<sup>15</sup>

**B. Wireless resellers have developed innovative consumer offerings and business models that serve specific populations and reduce the digital divide.**

Resellers are gaining market share due to their innovative consumer offerings that meet the needs of specific populations including ethnic communities, non-English speakers, veterans, immigrant communities, senior citizens, less-educated consumers, and those who are housing-insecure. Resellers are increasingly popular among consumers because of better customer service and flexible pricing plans.<sup>16</sup> MVNOs understand the communities they serve and are able to cater to the culturally-specific needs of those communities, which, in turn, facilitates diversity and inclusion in the wireless market and expands wireless deployment.

Resellers offer innovative technology, marketing, distribution, and customer service offerings, including multilingual service representatives and advertising<sup>17</sup> and specialized

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<sup>14</sup> Olga Kharif, *The Phone Companies People Actually Love*, Bloomberg Business Week (Feb. 4, 2016), [www.bloomberg.com/news/articles/2016-02-04/the-phone-companies-people-actually-love](http://www.bloomberg.com/news/articles/2016-02-04/the-phone-companies-people-actually-love).

<sup>15</sup> Jonathan Hadad, IBISWorld Industry Report 51791a: Telecommunications Resellers in the US, IBISWorld (Dec. 2017), [clients1.ibisworld.com/reports/us/industry/currentperformance.aspx?entid=1270](http://clients1.ibisworld.com/reports/us/industry/currentperformance.aspx?entid=1270).

<sup>16</sup> See Bree Fowler, *Little guys like Consumer Cellular and Ting take on industry giants in Consumer Reports' new survey*, Consumer Reports (Dec. 15, 2017), [www.consumerreports.org/cell-phones-services/best-cell-phone-companies-is-bigger-better](http://www.consumerreports.org/cell-phones-services/best-cell-phone-companies-is-bigger-better).

<sup>17</sup> For example, Telcel America has English and Spanish language websites and customer support is available in both languages. See Telcel America, [us.telcel.com](http://us.telcel.com) (last visited Feb. 21, 2018).

hardware.<sup>18</sup> The Commission highlighted the largest MVNO, TracFone, in the *Twentieth Mobile Wireless Competition Report* because of its unique offerings, citing its “multiple prepaid brands, including Straight Talk, Telcel America, and SafeLink, which target different market and demographic segments such as premium, Hispanic, or low-income subscribers.”<sup>19</sup>

Wireless resellers are helping to drive adoption rates and close the digital divide. With only 33% of qualifying households currently enrolled in the Lifeline program,<sup>20</sup> MVNOs are playing a vital role in reaching communities that have fallen through the cracks of the big carrier market. It is no coincidence that the six states with the lowest Lifeline participation rates are also the states with two or fewer resellers that offer Lifeline services.<sup>21</sup> By removing resellers from the Lifeline market, the Commission is likely to increase the digital divide, contrary to its stated objectives.

**C. Removing Lifeline support for resellers will make it difficult for these providers to continue to compete in the wireless market.**

Most of the \$1.5 billion in Lifeline support claimed in 2016 was claimed by resellers.<sup>22</sup> TracFone was the largest recipient of Lifeline support, and four of the top five Lifeline providers were resellers.<sup>23</sup> With business models built around the communities served through Lifeline, many of these resellers will be unable to effectively compete if they no longer have access to the

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<sup>18</sup> GreatCall is an MVNO that sells the Jitterbug—a smartphone with a simplified interface—and offers specialized features such as an urgent response button, 24/7 access to nurses, and connected medical alert devices. Sascha Segan, *The Best Phones for Seniors*, PCMag (Jan. 25, 2018), [www.pcmag.com/roundup/358549/the-best-phones-for-seniors](http://www.pcmag.com/roundup/358549/the-best-phones-for-seniors).

<sup>19</sup> *Twentieth Mobile Wireless Competition Report*, 32 FCCRcd at 9005.

<sup>20</sup> Universal Service Administration Co., Eligible Lifeline Population Statistics, USAC.org, [www.usac.org/li/about/process-overview/program-stats.aspx](http://www.usac.org/li/about/process-overview/program-stats.aspx) (last visited Feb. 16, 2018).

<sup>21</sup> *Id.*; see also *2016 Universal Service Monitoring Report*, CC Docket No. 96-45 at 30.

<sup>22</sup> *2016 Universal Service Monitoring Report*, CC Docket No. 96-45 at 27.

<sup>23</sup> *Id.*

Lifeline market. While wireless resellers represent a bright spot of competition in today's mobile wireless market, excluding these providers from Lifeline might inhibit their ability to continue to serve the communities in which they are the most competitive. As a result, these providers may be forced to exit the market reducing overall competition and harming consumers.

### **Conclusion**

The Commission's proposal to eliminate Lifeline support for non-facilities-based providers undermines the goal of the Lifeline program and runs counter to the Commission's longstanding commitment to promoting universal access and adoption through competition and consumer choice. Rather than disrupt the Lifeline service of over 8.5 million low-income households, the Commission should continue to provide Lifeline support for these innovative and competitive providers.

Respectfully submitted,

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\* These comments were drafted primarily by Kamila Benzina, a law student in the Institute for Public Representation Communications & Technology Clinic.